

Regarding the election of claimed species regarding invention I, Applicant respectfully traverses on the grounds that a generic claim can include a reasonable number of species so that a search and examination of all the species at one time would not impose a serious burden on the Examiner. Applicant submits that this application presents this situation.

Indeed, the Applicant submits that independent claims 1, 23 and 36 appear generic leaving dependent claims 2-22, 24-35 and 37-53. Since a search for the elements of the claimed invention identified in independent claims 1, 23 and 36 would also cover the related limitations of dependent claims 2-22, 24-35 and 37-53, it is not clear to Applicant of the different species envisioned. (See 37 C.F.R. §141(a) and 37 C.F.R. §146).

Further, Applicant respectfully submits that the subject matter of all of claims 1-53 is sufficiently related that a thorough search for the subject matter of any one group of claims would overlap a search for the subject matter of the remaining claims. In particular, the inorganic particles are selected from metals, metalloids, metal oxides and metalloid oxides. These metal type materials, independently, generally share similar performance characteristics. Further, the linking backbone is a carbon based material, such as, a polyether, hydrocarbon and a fluorocarbon. Thus, Applicant respectfully submits that the search and examination of the entire application, or at least claims 1-53, could be performed without serious burden to the Examiner.

Applicant respectfully submits that the policy requiring the examination of the entire application, even though it may include distinct inventions and/or species, should be applied in the present application in order to avoid unnecessary delay and expense to

Applicant and duplicative examination by the Patent Office. Applicant respectfully requests reconsideration and withdrawal of the election of species requirement and to examine all species and claims in this application, or at least the elected invention.

In addition, Applicant would like to submit that the case law, including In re Weber, 14 U.S.P.Q. 2d 1407 (Fed. Cir. 1990) and In re Harnish, 631 F.2d 716, 206 U.S.P.Q. 300 (C.C.P.A. 1980) as well as the M.P.E.P. Section 803.02, indicate that a Markush claim should be examined unless the subject matter in the claims lack unity of invention. Claims possess unity of invention when they share a common utility and share a substantial structural feature, disclosed, as being essential to that utility, e.g., a metal type material as discussed above.

However, in the alternative, should the Examiner still not be persuaded by the above discussion, and to facilitate prosecution though reserving the right to Petition an Election Requirement and to seek rejoinder during prosecution, Applicant elects, with traverse, a specie of invention I. Regarding claims 1-22, the specie includes an energetic composite material including a plurality of inorganic particles, a linking backbone, a first linking functional group, a second linking functional group and an energetic group. The plurality of inorganic particles are selected to be metals and, in particular, aluminum. The linking backbone is selected to be polyethers. The first linking functional group and the second linking functional group are selected to be the same material, that is, a carboxylic acid. The energetic group is selected to be an azide.

Similarly, regarding claims 23-35, the specie includes an energetic composite material including a plurality of aluminum particles substantially free of oxygen, a linking backbone, a first linking functional group, a second linking functional group and

an energetic group. The linking backbone is selected to be fluorocarbons. The first linking functional group and the second linking functional group are selected to be the same material, that is, a carboxylic acid. The energetic group is selected to be an azide.

Further, regarding claims 36-53, the specie includes an energetic composite material including a plurality of aluminum particles substantially free of oxygen, a linking backbone, a first linking functional group, a second linking functional group and an energetic group. The linking backbone is selected to be hydrocarbons. The first linking functional group and the second linking functional group are selected to be the same material, that is, a carboxylic acid. The energetic group is selected to be an azide.

Finally, as indicated above, regarding the method for making an energetic composition on which at least claims 54-56 are readable, and the article of manufacture on which at least claims 57-62 are readable, Applicant respectfully does not elect these claims but reserves the right to file, timely, a divisional applications containing these claims.

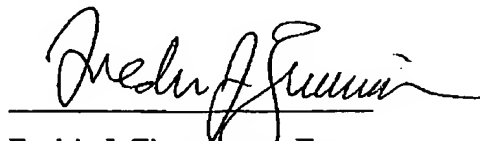
Early favorable prosecution on the merits is respectfully requested.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone

number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

Respectfully submitted,

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